

JPA File No.: 06-135 I
AG Contract No.: KR07-0117TRN
Project No.:092 CH 321.21
Project: DCR to evaluate widening
Section: SR 90 and 92 corridors
TRACS No.: H7145 01L
Budget Source Item No.: 70107 -
\$200K; 74407 (Dist. Minor) - \$200K

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF SIERRA VISTA

THIS AGREEMENT is entered into this date March 1st, 2007, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SIERRA VISTA, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution number 2005-091, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. SR 90 and SR 92 are major arterial corridors that serve residential and commercial developments within and around Sierra Vista. In 2003, the State, Cochise County and the City completed a Small Area Transportation Study (Study), which evaluated the capacity and levels of service of both State Routes' Bypass corridors for current and future use. The State and the City desire to implement recommendations contained in the Sierra Vista Small Area Transportation Study. The results of this Study recommended widening of the existing corridors within the next five to seven years, from approximately the Campus Drive/SR 90 intersection and south approximately four and one-half (4.5) miles through the Kachina Trail/SR 92 intersection.

4. The City has already funded the State in advance with \$100,000.00 as its share of the Project for a subsequent Design Concept Report (DCR), herein referred to as the "Project," in preparation of said highway widening project. The State will administer the said Project.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

28748
Filed with the Secretary of State
Filed: 3-1-07

Secretary
By: _____

II. SCOPE OF WORK

1. The State shall:

a. Upon execution of this Agreement, act as the authorized agent for and on behalf of the City, retain and contract with a professional Engineering and Environmental Consultant (the "Consultant") to perform design concept and environmental studies including the preparation of the DCR and all requisite technical studies.

b. The State will administer the Consultant contract and make payments to the Consultant. Be responsible for any Consultant claims for extra compensation attributable to the State.

c. Coordinate the Project with the City and provide the City the initial DCR documents for review and comment. Incorporate the City's comments in preparation of the final DCR documents. Provide the final DCR documents to the City.

d. Bill the City for additional costs if it's mutually agreed upon that the scope of the DCR would change.

2. The City shall:

a. Upon execution of this Agreement, hereby designate the State as the authorized agent for and on behalf of the City, to retain and contract the Consultant to prepare environmental and design concept studies including the DCR and all requisite technical studies.

b. Be responsible for any Consultant claims for extra compensation attributable to the City.

c. Coordinate the Project with the State and provide the State with any comments as necessary during preparation of the final DCR documents.

d. Remit to the State any additional funds over the previously-paid \$100,000.00 upon receipt of an invoice, should it be mutually agreed upon that the scope of the DCR would change.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall remain in force and effect until completion and acceptance of DCR documents. Should the City cancel the Project, prior to the State signing a Consultant contract, the State will fully reimburse the City its share of the Project.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 616E
Phoenix, Arizona 85007
(602) 712-7525
(602) 712-7424 Fax

City of Sierra Vista
Attn: City Engineer
401 Giulio Cesare Avenue
Sierra Vista, Arizona 85635
(520) 458-5775
(520) 458-0584

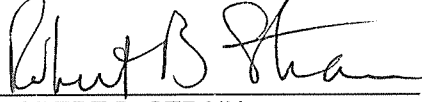
7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

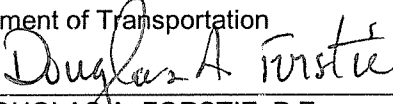
9. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

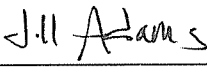
CITY OF SIERRA VISTA

By 
ROBERT B. STRAIN
Mayor

STATE OF ARIZONA

Department of Transportation
By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By 
JILL ADAMS
City Clerk

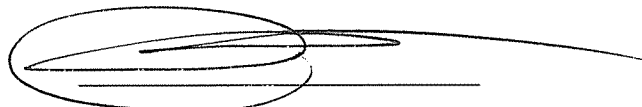
JPA 06-135

ATTORNEY APPROVAL FORM FOR THE CITY OF SIERRA VISTA

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 9th day of Feb., 2007.



City Attorney

RESOLUTION 2005-091

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; EXPRESSING THE COUNCIL'S INTENTION TO PROVIDE LOCAL MATCHING FUNDS FOR THE IMPROVEMENT OF STATE HIGHWAY 90 AND 92 CORRIDORS BETWEEN CAMPUS DRIVE AND KACHINA TRAIL; REQUESTING ADVANCEMENT OF THE SCOPING STUDY FOR SAID PROJECT; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, State Routes 90 and 92 are major, principal arterial corridors that directly and indirectly serve residential and commercial developments within and around the Sierra Vista area; and

WHEREAS, in 2003, the Arizona Department of Transportation (ADOT), Cochise County, and City of Sierra Vista completed a Small Area Transportation Study which evaluated the capacity and levels of service on the State Route 92 and the State Route 90 Bypass corridors, now, and over the next 25 years; and

WHEREAS, the results of the Small Area Transportation Study recommended widening of the existing State Route 92 and State Route 90 Bypass corridors within the next five to seven years, from a 5-lane section highway to a 7-lane section highway (with appropriate right turn lanes at major intersections) from approximately the Campus Drive/State Route 90 Bypass intersection, south, approximately five miles through the Kachina Trail/State Route 92 intersection; and

WHEREAS, the ADOT Safford District Engineer ranked this project as one of his top priority projects in Cochise County and has requested funds for the past two years, to "scope" said project, so it can be included in ADOT's Five-Year Construction Program; and

WHEREAS, the City Council has determined that said Highway Widening Project to be in the best interest of the City and supports the ADOT Safford District Engineer's request to fund a scoping study for said project this next fiscal year (FY06); and

WHEREAS, the purpose of this Resolution is to establish, as a matter of public record, that the Sierra Vista community is extremely concerned about the increase in congestion and injury/fatal accidents along the State Route 90 Bypass and State Route 92 corridors and that the City intends to budget and commit local matching funds, up to \$100,000, to advance funding of a scoping study for said Highway Widening Project so it can be programmed into ADOT's Five-Year Construction Program; and

WHEREAS, the proposed action is consistent with the policy of the City Council, most recently affirmed by Resolution 2997, to communicate the City's official commitment of certain matters to other governmental agencies, by resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

The policy of the City of Sierra Vista to communicate the City's official commitment which encourages intergovernmental cooperation and support for transportation needs and improvements, in and around Sierra Vista, most recently affirmed by Resolutions 2997 and 2004-027 be, and hereby is, reaffirmed.

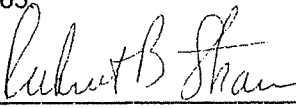
SECTION 2

The City Council, by this Resolution, hereby establishes its intentions to budget and allocate local matching funds, in an amount not to exceed \$100,000, and requests that ADOT advance and program sufficient funds next fiscal year (FY '06) to complete a Scoping Study for a Highway Widening Project from approximately the State Route 90 Bypass/Campus Drive intersection, south approximately 5 miles, through the Kachina Trail/State Route 92 intersection, provided ADOT can assure that said widening project will be programmed in ADOT's Five-Year Construction Program for FY 2011/2012 or sooner.


SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

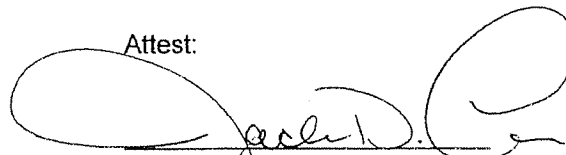
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 9TH DAY OF JUNE 2005.


for Thomas J. Hessler
Mayor


Approval as to Form:


Stuart L. Fauver
City Attorney

Attest:


Jack D. Cooke
City Clerk

Prepared by: Michael J. Hemesath, P.E., Director of Public Works

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
---	--	--

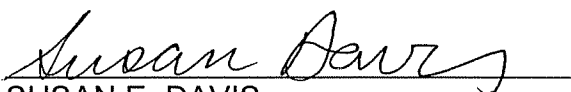
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR07-0117TRN (**JPA 06-135-I**), an Agreement between public agencies, i.e., The State of Arizona and City of Sierra Vista, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: February 21, 2007

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:1000824
Attachment